



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,852	10/03/2005	David R. Dalton	SP-1719.2 US (PCT)	6161

20875 7590 08/20/2007
MICHAEL C. POPHAL
EVEREADY BATTERY COMPANY INC
25225 DETROIT ROAD
P O BOX 450777
WESTLAKE, OH 44145

EXAMINER

DZIERZYNSKI, EVAN P

ART UNIT	PAPER NUMBER
----------	--------------

2875

MAIL DATE	DELIVERY MODE
-----------	---------------

08/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

TH

Office Action Summary

Application No.

10/551,852

Applicant(s)

DALTON ET AL.

Examiner

Evan Dzierzynski

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-23 and 31-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31-39 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 10, 11, 14, 15 and 19-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jigamian et al. (US 2003/0137834) in view of Talamo (US Pat 6244723), Mah (US 2003/0184997), and Prinsze (US Pat 4092580).

As for claim 1, Jigamian discloses a housing 232 having at least one aperture (where 88 connects to the housing) therethrough, a light source 66 within the housing, a power source 237 within the housing, electrical switch 88 means associated with the housing for forming an electrical circuit between the light source and the power source, the electrical switch means cooperating with the aperture to allow a user to actuate the switch means between a circuit open and closed condition (paragraph 0075). Jigamian also teaches a cover (top portion of 88), but fails to teach that it is resilient and extends over the electrical switch to provide a waterproof seal for the housing preventing ingress of water through the aperture. Jigamian fails to teach a resilient button cover and that the indicator is configured to illuminate when the switch means is in an circuit open position.

Mah teaches an indicator means that is configured to illuminate when a switch means is in the circuit open condition and the flashlight receives power only from the

Art Unit: 2875

power source (paragraph 0076). It would have been obvious for one of ordinary skill in the art to use the LED mode of Mah in the device of Jigamian to provide an indicator means that flashes in the event of AC power failure. One would have been motivated to make this combination to assist the user in the location of an off flashlight in the dark (Mah, paragraph 0076).

Prinsze teaches a housing 11 with a side having a tapered slot (91, Fig 4) that is received by a base-charging unit 16, 17 when the flashlight is inserted into the base unit to charge the power source (Fig 1). It would have been obvious for one of ordinary skill in the art to use the concept of using a tapered slot on a portion of a housing that corresponds to a base unit, as taught by Prinsze with the device of Jigamian, so that the device can be securely held in place while charging. One would have been motivated to make this combination to improve the securement means of the charger to the housing.

Talamo teaches a resilient button cover that provides waterproofing for a lighting device switch (col 4, lines 3-24). It would have been obvious for one of ordinary skill in the art to combine the resilient button cover of Talamo with the device of Jigamian in order to provide a means to waterproof the device to protect it from damaging environments (col 4, ln 5-6).

As for claim 2, Jigamian discloses that the indicator means includes a light source that is used to assist the user to locate the light (paragraph 0045). Mah also teaches that the device continuously flashes using power from a power source so long as the power source provides suitable power to illuminate the indicator means

(paragraph 0076). See the discussion in regard to claim 1 for the motivation for combining with Mah.

As for claim 3, Jigamian discloses that the indicator means includes a light source for indicating a status of the power source (paragraph 0045).

As for claim 4, Jigamian discloses that the indicator means includes a light source for indicating the recharging status of the power source (paragraph 0045).

As for claim 5, Jigamian discloses that the indicator means includes a light source for indicating the discharging status of the power source (paragraph 0045).

As for claim 6, Jigamian discloses that the aperture is provided in a recess in the housing (near 238, Fig 2).

As for claim 7, Jigamian discloses the device as discussed above. Talamo further teaches that the cover cooperates with a rim 42 of a recess (Fig 2) to provide a waterproof seal (col 4, ln 3-23). See the discussion in regard to claim 1 for the motivation for combining the seal of Talamo with the device of Jigamian.

As for claim 9, Jigamian discloses that the switch is actuated by a switch actuator that passes through the aperture, to enable a user to push the actuator to actuate the switch (paragraph 0045).

As for claim 10, Jigamian discloses that the indicator means includes a LED (paragraph 0045).

As for claim 11, Jigamian discloses that the indicator means passes through the housing (Fig 2).

Art Unit: 2875

As for claim 14, Jigamian further teaches that the indicator means is under the cover 88, see claim 1 for the motivation for combining with Talamo for the resilient cover.

As for claim 15, it is inherent that at least part of the cover of Jigamian is translucent, since the pushbutton of Jigamian has an LED under it to indicate the status of the flashlight to the user (paragraph 0045).

As for claim 19, Jigamian discloses the device as discussed above wherein the power source includes a rechargeable battery (paragraph 0047).

As for claim 20, Jigamian further discloses that the flashlight includes connection means for connecting the rechargeable battery to an external power supply to recharge the battery (paragraph 0047).

As for claim 21, Jigamian further discloses that the flashlight includes a recharging circuit, to which the indicator means is electrically connected (paragraph 0047).

As for claim 22, Jigamian further discloses that the indicator means is visible through the cover when the indicator means is or is not indicating a status of the power source (paragraph 0045).

As for claim 23, Jigamian discloses the device as discussed above but fails to teach or disclose that the flashlight is a waterproof flashlight. Talamo further teaches that the device is a waterproof flashlight (col 4, lines 1-5). See the discussion in regard to claim 1 for the motivation for combining.

Art Unit: 2875

As for claim 24, Jigamian teaches a method of providing an indicator means for a lighting device; the indicator means being adapted to provide a signal to a user of the lighting device (paragraph 0045). Jigamian teaches the switch with a cover, the sealant is interpreted as a cover (paragraph 0045), and that the pushbutton opens and closes a circuit between a power source and a lamp means (paragraph 0047). It is inherent that the switch is translucent, since Jigamian teaches an LED under the button that indicates the status of the flashlight to the user (paragraph 0045). Jigamian teaches a seal, but fails to teach that it is waterproof, and also fails to teach an indicator that is configured to illuminate when the switch means is in an circuit open position.

Mah teaches an indicator means that is configured to illuminate when a switch means is in the circuit open condition and the flashlight receives power only from the power source (paragraph 0076). It would have been obvious for one of ordinary skill in the art to use the LED mode of Mah in the device of Jigamian to provide an indicator means that flashes in the event of AC power failure. One would have been motivated to make this combination to assist the user in the location of an off flashlight in the dark (Mah, paragraph 0076).

Talamo teaches a resilient button cover that provides waterproofing for a lighting device (col 4, lines 3-24). It would have been obvious for one of ordinary skill in the art to combine the resilient button cover of Talamo with the device of Jigamian in order to provide a means to waterproof the device to protect it from damaging environments (col 4, ln 5-6).

Art Unit: 2875

As for claim 25, Jigamian further teaches that the indicator means is visible through the cover when the indicator means is providing the signal (paragraph 0045).

As for claim 26, wherein the indicator means is not visible through the cover when the indicator means is off (paragraph 0002).

As for claim 27, Jigamian further teaches that the lighting device is a flashlight.

As for claim 28, Jigamian discloses the device as discussed above but fails to teach or disclose that the flashlight is a waterproof flashlight. Talamo teaches a device that is a waterproof flashlight. See the discussion in regard to claim 24 for the motivation for combining the waterproofing of Talamo with the device of Jigamian.

As for claim 29, Jigamian further teaches a method wherein the indicator provides an indication of the charging status (paragraph 0045).

As for claim 30, Jigamian further teaches that the location of the lighting device is produced by a bright colored light source that is lighted intermittently (paragraph 0045).

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jigamian et al., Talamo, Prinsze and Mah, as applied to claim 1 above, and further in view of Parsons et al. (US Pat 6296367).

As for claims 12 and 13, Jigamian discloses the device as discussed above, further comprising an intermittent flash, the limitation of an indicator means that continuously intermittently blinks when power is available from the power source is an intended use limitation. Since Jigamian discloses an indicator capable of flashing intermittently (paragraph 0045), Jigamian meets the claimed limitation.

Jigamian does not specifically teach or disclose that each indicator means indicates a different state of the flashing. Parsons et al. teaches a device wherein each indicator means indicates a different state of the flashing wherein a first indicator means illuminates when the power source is recharging (col 24, ln 43-51), a second indicator means that illuminates when the power source is fully charged (col 24, ln 56-59). It would have been obvious for one of ordinary skill in the art to use the indicators that indicate different states of the flashing of Parsons with the device of Jigamian to improve the flashlight device. One would have been motivated to make this combination since the device of Parsons uses different color indicators and different lighting patterns (i.e. solid light, or flashing light) to simplify the user's ability to acknowledge the status of the lighting device.

Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jigamian, Talamo, Mah, and Prinsze, as applied to claim 1 above, and further in view of Rintz et al. (US Pat 6355885).

As for claim 16, Jigamian discloses the device as discussed above but fails to teach or disclose that at least part of the resilient cover is translucent/transparent. Rintz et al. teaches a resilient cover that is partially transparent. It would have been obvious for one of ordinary skill in the art to combine the transparent, resilient cover of Rintz with the device of Jigamian in order to have an improved cover.

As for claim 17, Jigamian discloses the device as discussed above but fails to teach or disclose that the cover is made of an elastomeric or polymeric material.

Talamo further teaches that the cover is of an elastomeric or polymeric material (col 3,

Art Unit: 2875

In 7-10). See the discussion in regard to claim 1 for the motivation for combining the cover of Talamo with the device of Jigamian.

As for claim 18, Jigamian discloses the device as discussed above, Rintz et al. further teaches that the cover includes silicon. See the discussion in regard to claim 16 for the motivation for combining Rintz with the device of Jigamian.

Response to Arguments

The arguments filed 7/30/2007 are convincing, the rejection in regard to independent claim 1 has been changed.

Allowable Subject Matter

Claims 31-39 are allowed.

The following is an examiner's statement of reasons for allowance: The applicant's arguments filed 7/30/2007 are convincing. The prior art fails to teach or disclose a flashlight housing with an electrical contact aperture with a flange located outside of the housing that provides a shoulder adjacent the housing with a resilient sealing means sandwiched between the shoulder and the flashlight housing to establish a water tight seal between the shoulder and the housing, and a contact connection means that extends from the flashlight electrical contact through the contact aperture that has securement means such that the shoulder maintains the sealing means under compression.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

Art Unit: 2875

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evan Dzierzynski whose telephone number is (571)-272-2336. The examiner can normally be reached on Monday through Friday 7:00 am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Renee Luebke can be reached on M-F (571)-272-2009. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/551,852
Art Unit: 2875

Page 11

Evan Dzierzynski

/Ali Alavi/

Primary Examiner

8/13/2007